

## HOW 'PHONE TRUST HAS HELD UP CITY IN 10-YEAR FIGHT

Retain Wire Conduit Monopoly and Millions Profit by Law's Delays.

NEW REFEREE NAMED.

And Suit Which Has Cost City \$100,000 Must Be Gone Over Again.

George Gordon Battle was selected today to succeed Eugene Phillips, resigned, as a referee in the suit of the City of New York against the Consolidated Telegraph and Electrical Subway Company and the Empire City Subway Company, Limited. The board of referees now consists of Hamilton Odell, Adrian H. Larkin and George Gordon Battle.

The case is of importance because it strikes at the monopoly of the streets for underground wires held by the New York Edison Company and the New York Telephone Company. It was begun Oct. 20, 1902, and now has been pending for ten years. It has cost the city \$100,000 to date and has never progressed beyond the referee stage. It has cost the companies involved possibly an equal amount, but this sum is small compared to the great profits accruing to them through maintenance of their monopoly.

To be able to hold these franchises for \$100,000 a year through this policy of law's delays is cheap for the corporations.

There is hope that if no more referees resign and the lawyers for the defense are not so impetuous as to interpose some entirely new objections, the referees may be able to make a report sometime within the next year. Then their report will have to go before the courts. First a Supreme Court justice will pass upon it. Next in order is an appeal to the Appellate Division and next to the Court of Appeals. If after this procedure the decision should be distasteful to the companies, there is possibly an appeal to the United States Court, where years might be consumed in reaching the Supreme Court in Washington. So there are bright prospects of at least several years more of litigation ahead, and in the meantime the streets are held as before.

BUT THE WORST IS YET TO COME.

But this is not all. The original suit was against the companies, Consolidated and Empire City. In the referee hearings so far only the first company's affairs were taken under consideration. While it is understood that the Empire City case would rest practically on the decision in the Consolidated, yet there is no certainty that the New York Telephone Company, which owns the Empire City Company, might not start another all over again and consuming as many more years as possible.

On the city's side, the suit absorbed the attention of Assistant Corporation Counsel W. H. Burr for five years and his assistant, H. B. Walker, for another five years. It has been the divided attention of William Harman Black, specially designated assistant to the Corporation Counsel, at \$7,500 a year for three years. It has had \$15,000 worth of chartered accountants' work; \$10,000 of time from the Commissioners of Accounts office and a long string of minor expenses. The defendant company, likewise, has been put to similar expense. In the end the loser will have to bear an additional enormous burden of referee and court costs.

This case is of paramount importance, because on its rests the franchises of the New York Telephone Company and the New York Edison Company to use the streets for their underground wires in Manhattan and the Bronx. There is directly involved an accounting for several millions of dollars of accumulated payments alleged to be due the city and what is of greater concern to the companies, reversion of the underground conduit franchises to the city.

The Consolidated Company's franchise dates back to 1863, when Mayor Hugh J. Grant started chopping down telegraph poles along Broadway. The telephone company took the initiative, organized the Consolidated and began laying wires underground. It was experimental and costly work at first, unquestionably a period of slow development up to the perfected lead cables of to-day. An exclusive franchise was granted on condition that the company pay to the city all net profits over 10 per cent. on the capital invested.

The profits have never exceeded 10 per cent. and that is what the suit is about, the alleged shoddy by peddling construction costs and juggling books, the company

## Omega Oil FOR Neuralgia

Soak a piece of flannel with Omega Oil, lay it over the aching nerves, cover with a piece of oil silk and bind it tightly against the face. This treatment has brought nights of peaceful rest to people who have suffered agonies and is certainly worth trying.

## "Neigh Neigh" to "Toot Toot" of Automobile Is Heard Again; Horse Show, Feature of Metropolitan Society, Starts To-Day



COUNT D'OUTREMONT ON VENDITTA.



MISS LOUISE WEBB ON FISHERMAN.



CAPT. STEWART ON NAN LANG.



BARON DE MESLON ON AMAZON.



MISS CLARA BEL JEFFERSON ON MARMION.

prevented any surplus revenue accruing.

DIVIDED ITS FRANCHISE WITH EDISON COMPANY.

Because low current telephone wires and high current electric wires cannot go in the same conduit a division was made by the owners in 1890 of the franchise. To the Consolidated Company was assigned the high tension wires and a new company called the Empire City Subway Company, Limited, took the low tension wires. The telephone company let the Edison Company have ownership of the Consolidated for its high current circuits and assumed for itself the Empire City Company for telephone and telegraph wires.

The city has sued both companies on practically identical grounds, but the case of the Consolidated is being tried first. The Empire City suit has never even reached a referee hearing, because all parties are waiting to see how the Consolidated action develops. Once a week, on Fridays, the referees hold a meeting and consider some phase of the involved tangle of accounting. The lawyers make charges of burned books, of overcharges and undercharges, of bonds issued at heavy discount and taken by the telephone or electric light companies, of construction companies organized merely as dummies to charge high prices and absorb profits so that none should go to the city.

This has been going on for ten years. Time and again some hopeful corporation counsel would declare that the issue was on the point of adjudication and then something would happen to postpone the case back again. Once it was the courts sustaining a demurrer to some technical point. Again it was for the chartered accountants, two sets of them, to tackle the case and they made opposing reports. At one time the referees almost reached a stage of reporting, when one of them died, that estimable gentleman and lawyer, Adrian H. Larkin, was appointed to fill the vacancy and again the subject was threshed over.

This second set of referees made progress until one of their number, Eugene Phillips, was appointed to the Supreme Bench about six months ago. He resigned and there was another delay until the contending parties could agree on a new man. This they finally succeeded in doing, and George Gordon Battle is now entering. Once more the case will be gone over.

FIGHT NOT FOR CASH, BUT MONOPOLY.

There have been intimations that the companies would be willing to make some payments on account to the city if only their exclusive franchise be preserved intact. The complaint calls for reversion of the franchise to the municipality for common use under proper regulation and this is the crucial issue. All the stock of the Consolidated Company is owned by the New York Edison Company and is voted at the annual meetings by its counsel, Henry J. Hammons. The New York Telephone Com-

pany owns 55 per cent. of the Empire City Company and the Edison Company the remaining 45 per cent. Frank H. Bethell, Vice-President of the New York Telephone Company, votes the stock at the perfunctory annual meetings. The balance sheet of the Consolidated shows it to have \$12,000,000 of capital liabilities and the Empire City balance sheet at the close of last year gave it nearly \$13,000,000 capital account.

Nothing is more satisfactory to these two great public service corporations than the delay that has prevailed during the ten years of litigation. If the case can be dragged along for ten years more, their exclusive possession of wire subways will continue. In former years fear of competition was the principal incentive to maintain their hold. Now there is another bogey man, more powerful and more threatening than competition. This is governmental ownership.

There is considerable speculative talk in corporate circles about the municipal ownership theories of Mayor-elect John Purroy Mitchell. Public service corporations have more fear now of Governmental ownership than of competition. This is because various State commissions have laid down the rule that one well regulated monopoly in certain lines of service is better than two recklessly competing companies. Particularly has this theory prevailed regarding telephone service. Two telephone companies often being pronounced a nuisance.

It is ownership of the Empire City Subway Company and exclusive control of low tension underground conduits in Manhattan and the Bronx that intrinsically the New York Telephone Company more securely than any other barrier. While the policy of both courts and city government has been to keep out dual telephone service, yet the city is endeavoring to get back the franchise for electrical subways that was so freely given away. Control over these arteries of communication would be a powerful leverage in protecting the public against overcharges and high rates, as for example the discrimination practiced by the telephone company imposing an extra five cent penalty on messenger calls between Manhattan and Brooklyn, also between Manhattan and the upper Bronx.

CALLS AN EGG STRIKE.

Atlantic City's Mayor Would Take Hen Fruit Till Price Drops.

ATLANTIC CITY, N. J., Nov. 15.—Mayor Riddle of this city wants the public to join him in abstaining from eating eggs until the price is reduced so the poor can again afford to buy them. In an appeal to the citizens of Atlantic City he said: "I am willing to lead if citizens will follow me in abstaining from eggs altogether until they can be purchased in the markets at a reasonable figure. If all the people in the country could be brought to the point of ceasing to eat eggs, the price would soon come."

Big Garden Comes Into Its Own Once More, and Like a Roman Arena Resounds to the Clatter of Hoofs Lifted High by Blue-Ribbon Beauties of the Turf.

The Horse has come into his own again.

My automobile for a horse! Ta-ra-ra! Ta-ra-ra! Ta-ra-ra! Ta-ra-ra! "Ta the bugle's merry blast summoning the equine thoroughbreds to the sport of kings."

Rub-a-dub, dub-dub, dub! There goes the drum, and now the crash of brass. After that a little music, please. Thank you. Soft, sweet, merry music to set the horses dancing and prancing, and bring an answering neigh. Lights up. Ah!

The International Horse Show is open at Madison Square Garden.

Madison Square Garden! This isn't the Garden. Friends, Society and Horse Owners, this is Rome. The home of the Caesars, 2,000 years ago. Yes, there is the arena where Spartacus had the scrap. Where the lion laid down with the lamb inside of him. Where Caligula—what the deuce did Caligula? Well, where Nero played the fiddle, and the ladies of the court turned their thumbs down, when they would have preferred turning them into their ears.

Yes, it is Rome—all Rome—with the Apollon gateway in the distance. Upon a hill is "the people's house," and Roman Tammany lies in the lake of curulean blue beyond. Over the Madison avenue entrance is the Emperor's box, looking down into the amphitheatre where 2,000 years ago Cicero made books on the chariot races. The Japanese invasion of last year has been wiped out. Old Mt. Takashima has been buried under its own snows. Instead is the bright blue sky of Italy, hung with yellow sunbeams.

There isn't a girl of the old Garden to be seen. The boxes for the society queens are outlaid with marble walls. The queens and their ladies will dream that they dwell in mar-bel haw-ha-halls. There are onyx marble columns and cornices—columns wreathed with the trophies of the Caesars, cornices on which rest the Roman arm.

From an artistic standpoint the transformation is a classic of the painter's brush and the draper's art. The homes and other edifices of ancient Rome stand out in relief on the canvas at the Fourth avenue end of the arena. The balconies back in the sunshine of yellow under the blue sky which shuts out the roof. Marble columns adorn the barrier

wall separating the arena from the boardwalk where citizens tread.

Two o'clock this afternoon was the hour set for opening the gates of Rome. Fourteen harness horses chafed in the Campagna.

All morning horses were being led and driven into the Eternal City and sent down the runways to stall-stalls. Harness horses, saddle horses and Shetland ponies, trotters and jumpers and other ponies came in groups. They neighed welcome to one another, and nodded to those they had met last year. They knew what they were there for, but if they had anything to say they kept it to themselves.

President Alfred Gwynne Vanderbilt of the National Horse Show Association, under whose auspices the Horse Show is being held, was on hand early. There was lots for him to do, and he did it. Carpenters and decorators were still at work, but they had finished their work before the hour of opening. Everything went ahead as smooth as the marble walls of Rome. Mr. Vanderbilt gave a luncheon in the clubhouse, behind the members' box, to the directors of the association and their guests.

And Mr. Vanderbilt did more. He remembered the little orphans of the city, as he does every year. The balconies were reserved for more than 3,000 of them. The children were marshaled by their attendants at the various asylums, to be marched to the Garden. The poor little cripples, dependent upon the charity of a great city, he ordered auto buses to carry. The city's little wards have looked forward to this occasion for many months. They always do. They know Santa Claus Vanderbilt. After the show each one of them will leave the Garden with a substantial present. It is their Christmas Day.

From the horse standpoint the show promises to be the best ever held in the Garden. There are 23 exhibitors and 1,750 entries. The programme includes 14 classes. The horses are from all parts of the country—from Merrie England and La Belle France, from blooming Belgium, cold Canada and icy Norway, from the swamplands of Ireland and the steppes of Russia. Watch those steeppers. The comacks can ride.

All the winners in the shows of last summer in this country will be in evidence. And so will all society's favorite riders. Miss Hopeton D. Atterbury will again be in the saddle. So will Miss Clara Bel Jefferson, Miss Louisa Long and Mrs. Thomas J. Regan. Mr. Vanderbilt himself is one of the big exhibitors this year and is going after the ribbons. Judge Moore, who has won ribbons enough to decorate all the foreign potentates, has brought in twenty-eight horses and will himself again handle the reins.

Society's babies, with their maids, crowded the expensive boxes to-day and cooed at the horses. This is the usual thing at the Horse Show's first matinee. To-night, when there are good evening scheduled, Mrs. and Miss Society will be there for a scent of the tanbark and to keep step with the high steppers.

## BOY TELLS HOW HE ROBBED WOMAN IN FIFTH AVENUE

Let in Antique Shop By Pa Working Inside; Both Get Drunk With Proceeds.

James Simmons, seventeen years old, of No. 170 Schermerhorn street, Brooklyn, and his roommate, James Ryan, nineteen, confessed to Detective Barron to-day that they had attacked and robbed Mrs. L. M. Crowe, an antique dealer, at No. 56 Fifth avenue yesterday afternoon. Policeman Rye of the Adams street station found Ryan helplessly drunk at Joralemon and Court streets, Brooklyn, last night.

The boy had on his hand a valuable diamond ring. His shabby appearance otherwise aroused the curiosity of the policeman, who walked him around and questioned him. Ryan's answers were contradictory and Rye took him to the station. On the way, according to the

policeman, Ryan offered him \$30 to be turned loose. When he was searched two gold bracelets and a wedding ring and \$30 in bills were found in Ryan's pockets. The jewelry answered the description of that taken from Mrs. Crowe, as sent out in a general alarm from Manhattan last night. Ryan then owned up to the robbery.

He said that Simmons had been employed by Mrs. Crowe for two days as a porter and, observing her jewelry, had snuggled Ryan into the antique store yesterday afternoon to help rob her. She went to an office at the back of the store to put on her coat and hat to go home. Ryan said he jumped out of a dark corner and knocked her down with a hammer wrapped in cloth. The two then took her jewelry.

Later Ryan said they made a tour of the saloons of lower Fulton street in Brooklyn. Simmons fell in a tenement hall unconscious. Ryan said, and he himself took all the jewelry and money and continued drinking until the policeman found him. The police found Simmons where Ryan said he had left him.

William W. Smith Dead. POUGHKEEPSIE, N. Y., Nov. 15.—William W. Smith, who made a fortune in the confectionery business and spent a large part of it in philanthropic gifts, died at his home here to-day. He was eighty-five years old. Mr. Smith began his business career selling cards from a

## SUFFRAGETTE HURLS HAMMER AT JUDGE IN OLD BAILEY COURT

LONDON, Nov. 15.—At the Old Bailey to-day a suffragette spokeswoman threw a ripe tomato and a hammer at Justice Lawrence. Her aim was good. The hammer shattered the glass surrounding the prisoners' dock. The tomato splattered several eminent Judges' Counselors.

The outbreak interrupted the trial of Rachel Pearce, an "arsonette."

The tomato and hammer were thrown in the midst of a violent and dramatic outburst during Justice Lawrence's charge to the jury. Suffragette spokesmen stood up and yelled "Shame" and "Unfair" at the Magistrate.

The Court ordered the room cleared and bailiffs put the women out. There was a general scuffle and the glass panes of the courtroom were smashed. The hammer thrower and four other women were arrested.

Miss Pearce, charged with setting fire to The Elms, a country mansion at Hampton Court, was convicted and sentenced to eighteen months' imprisonment.

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